

UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 03-CR-20774-MORENO

UNITED STATES OF AMERICA

vs.

GILBERTO RODRIGUEZ-OREJUELA,
_____ /

MOTION FOR COMPANSSIONATE RELEASE

Gilberto Rodriguez-Orejuela is old and sick. He is 80 and has been treated with surgery and chemotherapy for various cancers among numerous other things. Pursuant to the First Step Act and 18 U.S.C. 3582(c)(1)(A)(ii), he is respectfully requesting compassionate release:

1. On September 26, 2006 Gilberto Rodriguez-Orejuela was sentenced to a term of 360 months. He is now in BOP custody at FCI Butner, North Carolina, with a release date of February 9, 2030.

2. He has been in custody since December 22, 2003. With BOP good time as of October 22, 2019, calculated under 18 U.S.C. 3624, as amended December 21, 2018, he will have served 245 months, or just over 68% of his sentence. He is 80 years old. He did not receive any credit from the Court or BOP for the nearly ten years he spent in prison in Colombia for the same set of offenses.

3. He has the following serious medical conditions, documented by his BOP medical records and by records of outside medical providers, including but not limited to the

Duke University Medical Center in Durham, North Carolina:

A. Colon Carcinoma, diagnosed in 2009. He had surgery for removal of 25 cm of his intestine and the installation of a stomatic colostomy bag. Hospitalized two weeks.

B. Hospitalized for a week later in 2009 for surgical removal of the stomatic colostomy bag and closing of the abdominal stoma.

C. GI intestinal disorder, chronic, since 2009.

D. In 2010 a mass was found in his prostate, and the biopsy showed it was malignant. He was then relocated to FMC Butner where he underwent 42 sessions of radiation and chemotherapy. There then followed another week of radiation, which affected his colon and aggravated his stomach. The radiation was then suspended and he was given morphine for pain. The morphine diminished the pain so that the radiation could resume, but the pain has never gone away altogether. There were 42 more radiation sessions within 8 months, with continuing stomach pain to date and continuing chronic diarrhea.

E. Chronic stricture and stenosis of esophagus, first diagnosed in 2008.

F. Chronic diaphranatic hernia, just diagnosed in 2009.

G. Chronic Barrett's Esophagus Disease, first diagnosed in 2015. This prevents him from sleeping in a flat horizontal position, and allows him only two meals a day.

H. He had his first major heart attack on March 8, 2006 and his second in 2010, when he had a pacemaker implanted.

I. Chronic coronary artery disease. He has had a bypass graft.

J. Chronic hypertension

K. Chronic dysphagia

- L. Chronic anxiety/depression, daily medication.
- M. Surgery in 2016 for skin cancer lesion on nose.
- N. Skin cancer lesion biopsied on arm.
- O. Hyperlipedia.
- P. Gout
- Q. Hyperpleaisa
- R. Acute chronic sinusitis.
- S. Acute Periodontitis.
- T. Psoriasis

4. He meets the BOP standards, set out in Program Statement 5050.49 for an Elderly Inmate with Medical Conditions. He may well be terminally ill. He also meets the compassionate release criteria of 18 U.S.C. 3582(c)(1)(A)(i) (permitting release "upon motion of the defendant" where "extraordinary and compelling reasons warrant such a reduction") and Section 1B1.13 of the Federal Sentencing Guidelines.

5. Section 1B1.13 of the Federal Sentencing Guidelines, with its Commentary and Application Notes, makes it clear that Gilberto Rodriguez-Orejuela meets the applicable criteria for compassionate release. He suffers from cancer, App. Note 1.(A)(i), he suffers from serious physical condition, App. Note 1(A)(ii)(iii), and he experiences deteriorating physical health because of the aging process, App. Note 1.(A)(ii)(iii). All of the above, in combination, substantially decrease his ability to provide self-care within the environment of a correctional facility. Nor is he likely to recover from the plethora of ailments.

6. In his present state, Gilberto Rodriguez-Orejuela has all he can handle just

trying to make it day to day. He has had zero BOP infractions. In his condition today, Gilberto Rodriguez-Orejuela could not be a plausible threat to anyone or anything.

7. The First Step Act allows family and counsel to request compassionate release. We did so on September 4, 2019 in a letter to the warden at FCI Butner, and have had no response.

8. Formal requests for compassionate release have also been submitted by Gilberto Rodriguez-Orejuela to the BOP. All administrative rights to appeal the failure of the BOP to bring a motion on the defendant's behalf have long since been exhausted.

9. The release plan is for Gilberto Rodriguez-Orejuela to live with his wife, Myriam Rodriguez and his 54 year old daughter, Alexandra Rodriguez in Bogota, Colombia. She will ensure that his medical needs are met.

10. Gilberto Rodriguez-Orejuela is a Colombian national and there is an ICE detainer against him, for deportation. The Colombian Consulate General in Atlanta is now working with ICE to have the detainer dropped so that he would be able to simply fly home to Colombia if granted compassionate release, without having to go through the sometimes months-long deportation process with inadequate and spasmodic medical care.

WHEREFORE we respectfully request that the Court order the release of Gilberto Rodriguez-Orejuela forthwith to return home to Colombia.

Respectfully submitted,

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